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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,873	05/17/2006	Nicholas David Wingham Rowan	GML0101PUSA	8312
22045	7590	03/03/2010		
BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075				
EXAMINER				
FADOK, MARK A				
ART UNIT		PAPER NUMBER		
3625				
MAIL DATE		DELIVERY MODE		
03/03/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/595,873

**Applicant(s)**ROWAN, NICHOLAS DAVID  
WINGHAM**Examiner**

MARK FADOK

**Art Unit**

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 61-90 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 61-90 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

The examiner acknowledges the cancellation of claims 1-60 and the addition of claims 61-90 in the amendment filed 5/17/2006.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 75-87,89 and 90 are directed to non-statutory subject matter.

Based on Supreme Court precedence see *Diamond v Diehr* 450 US 175,184 (1981); *Parker v. Flook*, 437 US 584,588,n. 9 (1978); *Gottschalk v Benson*, 409 US 63, 70 (1972); *Cochrane v Deener*, 94 US 780, 787-88 (1876) a 101 process must (1) be tied to another statutory class (such as an apparatus) or transform underlying subject matter (such as an article or materials) to a different state or thing. Since neither of these requirements is met by the claim the claim is rejected as being directed to non-statutory subject matter.

### ***Claim Rejections - 35 USC § 102***

Claims 61-66,68,70-84,87-90 rejected under 35 U.S.C. 102(e) as being and anticipated by Harpale (US Patent 7222089).

**In regards to claims 61-66,68,70-84,87-90**, Harpale teaches all the features of the instant claims. For instance Harpale discloses a transaction management system for managing the purchase of an item and/or service by a buyer from a seller, wherein at least some sellers are associated with agencies (FIG 5B), the system comprising:

- a plurality of agency data stores, each for storing agency data comprising:
  - seller data for each of a plurality of sellers associated with the agency (FIG 6C); and

- indication data for indicating whether the agency is prepared to offer sellers associated with the agency to buyers associated with other agencies and the terms of any such offer (FIG 6C, indication saved at IDEM for later match);

- a program store storing processor implementable instructions (FIG 6B, IDEM web site); and

- a processor coupled to the agency data store and to the program store for implementing the stored instructions (IDEM); wherein the stored instructions comprise instructions for controlling the processor to:

- implement a buyer interface to receive a purchase inquiry from a buyer (FIG 6B, item 211);

- output seller offer data to the buyer for a plurality of sellers (FIG 6B, Item 600,602 and 231),

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wherein the seller offer data presented to the buyer takes into account the terms of said offer of sellers associated with an agency to buyers associated with other agencies (FIG 7B, price markup);

receive a purchase request from the buyer accepting a said offer (Claim 1); and

implement a seller interface to output the purchase request to the identified seller for requesting purchase of a service or item (FIG 5B); and

ascertain compliance data for determining whether the identified seller is willing or able to comply with the buyer purchase request (col 9, lines 1-9, and col 10, lines 33-45).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 67,85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harpale, and further in view of Official Notice.**

**In regards to claims 67 and 85**, Harpale teaches selecting sellers that are preferred by a buyer, but does not specifically mention outputting seller offer data in an order based on factors including a ranking given to the other agencies. The examiner takes Official Notice that ranking provided data including that of sellers when presenting the information to a buyer was old and well known in the art at the time of the invention. It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Harpale ranking the provided data, because this will provide information that best suits the buyers requested needs and provide for more relevant data being more visible to the buyer.

**Claims 69 and 86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harpale, and further in view of Andersen (us 5,774,883).**

**In regards to claims 69 and 86**, Harpale teaches calculating a price that includes a commission and distributing commissions to a plurality of agencies, but does not specifically mention means for calculating the price and determining if the commission to be paid to the agency with which the seller is associated is greater than commission of the agency with which the buyer is associated, and if so removing the offer from the seller offer data. Andersen teaches withdrawing a sale if the profit distribution is lower than a valid margin (col 28, line 54 – col 29, line 8). It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Harpale, means for calculating the price

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and determining if the commission to be paid to the agency with which the seller is associated is greater than commission of the agency with which the buyer is associated, and if so removing the offer from the seller offer data as is taught by Andersen, because this will assure that the company that is brokering the deal does not lose money on the transaction.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **571.272.6755**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeffrey Smith** can be reached on **571.272.6763**.

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

Alexandria, Va. 22313-1450

or faxed to:

**571-273-8300**

[Official communications; including  
After Final communications labeled  
"Box AF"]

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For general questions the receptionist can be reached  
at 571.272.3600

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>.  
Should

you have questions on access to the Private PAIR system, contact the Electronic  
Business Center (EBC) at 866-217-9197 (toll-free).

/Mark Fadok/

Mark Fadok

Primary Examiner, Art Unit 3625